HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. V.SEETHAPATHY

WRIT PETITION No. 14658 OF 2006

Between:

G.Venkat Reddy

……Petitioner

And

The Election Commissioner,
State Election Commission,
Hyderabad, Andhra Pradesh
and another

……Respondents

:: ORDER ::

Counsel for the Petitioner : Sri J.M.Naidu

Counsel for Respondent No.1 : Sri V.V.Prabhakar Rao

Counsel for Respondent No.2 : Government Pleader for Panchayat Raj

Dated: 01-08-2006

Per G.S. SINGHVI, CJ

In this petition, the petitioner has prayed for issue of a mandamus to the respondents to include his name in the voters list of Village Vepulabailu and entertain his nomination paper for the office of the Sarpanch of Vepulabailu Gram Panchayat, Chittoor District.

A perusal of the record shows that while issuing "rule nisi" on 18-07-2006 and referring the matter to the Division Bench, the learned Single Judge passed an interim order in WPMP No.18254 of 2006 whereby a direction was issued to the respondents to consider the petitioner's application for inclusion of his name in the voters list.

Sri V.V.Prabhakar Rao, learned advocate for the State Election Commission says that in compliance of the direction given by the Court, AERO and Mandal Revenue Officer, Piler made enquiry into the petitioner's claim and his name has been included in the voters list at serial No.930 of Piler Gram Panchayat. According to Sri Prabhakar Rao, this was conveyed to the petitioner vide Roc.No.A2/1532/2006 dated 25-07-2006.

Shri J.M.Naidu says that with the inclusion of the petitioner's name in the voters list, he has become entitled to contest election for the office of the Sarpanch of Vepulabailu Gram Panchayat and, therefore, an appripraite direction may be given to the respondents to entertain his nomination and allow him to contest the election.

In our opinion, there is no merit in the aforementioned submission of the learned counsel and the writ petition is liable to be dismissed because,

i) the petitioner's name has been included in the voters list of Village Piler and not Vilalge Vepulabailu and, on the basis of such inclusion, he cannot claim right to contest election for the office of the Sarpanch of Gram Panchayat, Vepulabailu; and

ii) as per the schedule notified by the State Election Commission, nomination papers for the office of Sarpanch could be filed up to 19-7-2006 and the list

of eligible candidates was to be notified by 23-7-2006. Since the petitioner's name was not included in the voters list till 23-07-2006, his nomination paper could not have been entertained and, at this stage, the Court cannot issue direction to the respondents to entertain his nomination because that would tantamount to amendment of the list of candidates found eligible to contest election for the office of Sarpanch and it is not possible to issue such direction because other candidates who have been found eligible to contest the election and whose right to contest the election is likely to be adversely affected by addition of one competitor in the field are not parties to the writ petition.

In view of the above, the writ petition is disposed of as infructuous. However, liberty is given to the petitioner to challenge the result of election, if any, in accordance with law.

As a sequel to disposal of the writ petition as infructuous, WPMP No.20027 of 2006 filed for issue of an interim direction is also disposed of as infructuous.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY,J

01-08-2006
ks/svs